

## REMARKS

Claims 16-33 are pending in this application. Claims 1-15 were previously canceled. Claims 29-33 were withdrawn. No claims have been amended herein. In view of these remarks, Applicant respectfully requests reconsideration of the claims.

The Amendments filed December 22, 2006 and April 24, 2007 were objected to under 35 U.S.C. § 132(a) because they assertedly introduce new matter into the disclosure of the invention.

MPEP 608.01(I) states, "In establishing a disclosure, applicant may rely not only on the description and drawing as filed but also on the original claims if their content justifies it."

Applicants respectfully disagree with the Examiner's objection. No new matter has been introduced. The amendments filed December 22, 2006 included a new figure, which is supported by Claim 16, as originally filed. The amendment filed April 24, 2007 added formal drawings.

The amendment to paragraph [0025] adds only language found in originally filed Claim 16 and a reference to the new figure. Specifically, Applicants have amended paragraph [0025] to recite, "In other situations, a portion of the first dielectric layer 126 may remain on the side of the gate electrode 122 such that the notched spacer is thinner along the surface of the substrate, as illustrated in Fig. 1j." The claim 16 as originally filed recites in part, "forming a notched spacer alongside the gate electrode *such that the notched spacer is thinner along the surface of the substrate ...*", and accordingly, provides support for the amendment to paragraph [0025]. Thus, no new matter has been added. This objection has been traversed, and therefore Applicants respectfully request reconsideration of the amendments.

Claims 16-28 were rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement. As stated in the specification paragraph [0025] as originally filed, "The width of the notch will be dependent upon the thickness of the first

dielectric layer 126 and the notch height may be controlled by varying the etch duration.”

Therefore, within the specification as originally filed is the description of a method to control the thickness of the notch to one skilled in the relevant art. The Examiner’s allegation that “such that a thickness of the notched spacer alongside the gate electrode is thinner near the substrate,” is not taught in the specification is incorrect. The SiO<sub>2</sub> alongside the gate electrode near the substrate is not protected by a mask; therefore, it is easily recognized, by one of ordinary skill in the art, that the thickness of the notched spacer alongside the gate electrode near the substrate is the portion of the spacer that is controlled by varying the etch duration.

Further, the Examiner states that the specification “says nothing about the thickness of the portion of the dielectric layer that remains, and does not teach the thickness of the spacer is thinner near the substrate.” Again, the Applicants disagree. To those of ordinary skill in the art, it is obvious that a notched area is a thinner area, not a thicker area. Moreover, the Examiner states:

Claim 16, as originally filed, says that a notched spacer is formed that is, “thinner along the surface of the substrate,” which is not entirely clear (and appears to describe an L-shaped spacer).

Office Action dated July 12, 2007.

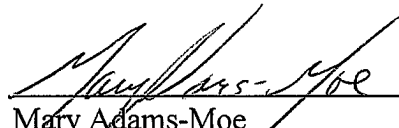
Applicants disagree. It is entirely clear to one of ordinary skill in the art that the spacer is alongside the gate electrode. It is also clear to one of ordinary skill in the art that the area of the spacer that is unprotected by the mask is the area of the spacer that is etched. It is further clear that the area of the spacer that is unprotected by the mask is along the surface of the substrate. Therefore, to one of ordinary skill in the art, thinner along the surface of the substrate does indeed state that the notched spacer is thinner alongside the gate electrode near the substrate. Moreover, the ordinary and plain meaning of the word notched means an indentation, not a protrusion. Therefore, along the surface of the substrate cannot mean an “L-shaped spacer” as the Examiner

alleges. The Applicants respectfully traverse the rejection of claim 16. Since claims 17-23 depend from claim 16, the same arguments as the independent claim 16 apply to these dependent claims. Therefore, the rejection of claims 17-23 has been traversed. Further, independent claim 24 contains features similar to claim 16. The Examiner states that there is no support in the specification for removing "a portion" of the first layer along the substrate. Applicants disagree. The specification as amended states in paragraph [0025], "...a portion of the first dielectric layer 126 may remain on the side of the gate electrode 122, such that the notched spacer is thinner along the surface of the substrate." Therefore, the rejection of this claim is also traversed. Since claims 25-28 depend from claim 24, the same arguments as the independent claim 24 apply to these dependent claims. Therefore, the rejection of claims 25-28 has been traversed.

Applicants have made a diligent effort to place the claims in condition for allowance. However, should there remain unresolved issues that require adverse action, it is respectfully requested that the Examiner telephone Mary Adams-Moe, Applicants' attorney, at 972-732-1001, so that such issues may be resolved as expeditiously as possible. No fee is believed due in connection with this filing. However, should one be deemed due, the Commissioner is hereby authorized to charge Deposit Account No. 50-1065.

Respectfully submitted,

September 11, 2007  
Date

  
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